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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,790	01/13/2004	Thomas Arnold Anschutz	030408 (9400-62)	2954

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/756,790	<b>Applicant(s)</b> ANSCHUTZ ET AL.	
	<b>Examiner</b> UZMA ALAM	<b>Art Unit</b> 2457	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/13/04 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/16/09; 7/24/09</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This action is responsive to the arguments submitted May 18, 2009. Claims 1-55 are pending. Claims 1-55 represent a method, system and computer program product for modifying at least one of bandwidth and QoS for a user session in a network.

### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-55 are rejected under 35 U.S.C. 102(e) as being anticipated by McDysan et al. US Patent No. 7,046,680. McDysan teaches the invention as claimed including a responding to packets requesting policy based services (see abstract).

As per claim 1, McDysan teaches a method of modifying at least one of at least one of bandwidth and Quality of Service (QoS) for a user session in a network that comprises a Regional/Access Network (RAN) [MAN 16] that facilitates differentiated end-to-end data transport between a Network Service Provider (NSP) and an Application Service Provider (ASP) and a Customer Premises Network (CPN) that includes Customer Premises Equipment (CPE), comprising:

receiving a request at at least one of at least one of the NSP and the ASP [programmable access device 40; column 5, lines 56-62] to change at least one of bandwidth and Qos associated with the user's session (RSVP request for bandwidth; column 16, lines 59-64; column 17, lines 1-40); and

using Application Programming Interface (API) calls at at least one of the NSP and the ASP to communicate with the RAN to modify the at least one of at least one of bandwidth and QoS associated with the user's session (policy server then makes....that control the functionality of PAD....via an API; column 6, lines 1-46).

As per claim 2, McDysan teaches the method of Claim 1, wherein receiving the request comprises: initiating the request at at least one of at least one of the NSP and the ASP to change at least one of the at least one of bandwidth and QoS associated with the user's session (request bandwidth change by sending a RESV message to PAD; column 16, line s1-46)

As per claim 3, McDysan teaches the method of Claim 1, wherein receiving the request comprises: receiving the request at at least one of at least one of the NSP and the ASP from a user to change the at least one of at least one of bandwidth and QoS associated with the user's session (request bandwidth change by sending a RESV message to PAD; column 16, lines 1-46; Figure 6; column 29, lines 64-67; column 30, lines 1-32).

As per claim 4, McDysan teaches the method of Claim 3, wherein the QoS associated with the user's session is scheduling resources (establishing customer flow; column 17, lines 21-35).

As per claim 5, McDysan teaches the method of Claim 4, wherein using the API comprises: sending a query from at least one of the NSP and the ASP to the RAN to obtain a at

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least one of bandwidth range and QoS capabilities from the RAN (query policy server; column 17, lines 18-23).

As per claim 6, McDysan teaches the method of Claim 5, further comprising: presenting to the user via the ASP and at least one of the NSP at least one at least one of bandwidth/QoS option within the at least one of bandwidth range and QoS capabilities received from the RAN (sending a resvy packet to the user; column 17, lines 1-40).

As per claim 7, McDysan teaches the method of Claim 6, further comprising:  
obtaining a user selection of one of the at least one at least one of bandwidth/QoS option at at least one of the NSP and the ASP (column 17, lines 1-40); and

updating the RAN with information to provide the selected at least one of bandwidth/QoS option for the user's session (column 17, lines 1-40).

As per claim 8, McDysan teaches the method of Claim 7, further comprising: updating the CPE with the information to provide the selected at least one of bandwidth/QoS option for the user's session (column 17, lines 1-40).

As per claim 9, McDysan teaches the method of Claim 8, wherein updating the CPE with information comprises: sending an update session at least one of bandwidth info message and a QoS-related message from the RAN to the CPE that contains a request for changing the at least

one of bandwidth/QoS associated with the user's session to the selected at least one of bandwidth option in the CPE (column 17, lines 1-40).

As per claim 10, McDysan teaches the method of Claim 9, wherein updating the RAN with information further comprises: updating a rate limit and QoS associated with a communication queue in the RAN that is used to process traffic associated with the user's session (column 17, lines 1-40).

As per claim 11, McDysan teaches the method of Claim 7, wherein updating the RAN with information comprises: sending a change session at least one of bandwidth request message from at least one of the NSP and the ASP to the RAN that contains a request for changing the at least one of bandwidth associated with the user's access session to the selected at least one of bandwidth option in the RAN (column 17, lines 1-40).

As per claim 12, McDysan teaches the method of Claim 11, further comprising: sending a change session at least one of bandwidth response message from the RAN to at least one of the NSP and the ASP that contains an acknowledgement for the change session at least one of bandwidth request message (column 11, lines 25-67; column 17, lines 1-40).

As per claim 13, McDysan teaches the method of Claim 11, wherein updating the RAN with information further comprises: updating a rate limit associated with a communication queue

in the RAN that is used to process traffic associated with the user's session (column 11, lines 25-37).

As per claim 14, McDysan teaches the method of Claim 5, further comprising:  
authenticating at least one of the NSP and the ASP with the RAN prior to sending the query from  
at least one of the NSP and the ASP to the RAN (column 17, lines 1-40).

As per claim 15, McDysan teaches the method of Claim 14, wherein authenticating at  
least one of the NSP and the ASP with the RAN comprises:  
sending an establish service session request message from at least one of the NSP and the ASP to  
the RAN that contains an identification of at least one of the NSP and the ASP and authorization  
credentials (column 22, lines 1-67; column 27, lines 64-67; column 28, lines 1-32); and

sending an establish service session response message from the RAN to at least one of  
the NSP and the ASP that contains an authentication result (column 19, lines 24-67; column 20;  
column 21, lines 1-35; Figures 7B-7E).

As per claim 16, McDysan teaches the method of Claim 5, wherein sending the query  
comprises: sending a query session at least one of bandwidth request message from at least one  
of the NSP and the ASP to the RAN that contains a request for at least one of bandwidth  
information associated with the user's session (column 17, lines 1-40); and

sending a query session at least one of bandwidth response message including scheduling resources from the RAN to at least one of the NSP and the ASP that contains the at least one of bandwidth range (column 17, lines 1-40).

As per claim 17, McDysan teaches the method of Claim 1, wherein the request is a first request, the method further comprising:

updating the RAN and the CPE with information to modify the at least one of bandwidth and QoS associated with the user's session (column 16 ,lines 59-67);

then receiving a second request at at least one of the NSP and the ASP to delete or change at least one of bandwidth and QoS associated with the user's session (column 17, lines 1-40); and

using API calls at at least one of the NSP and the ASP to communicate with the RAN to change the at least one of bandwidth and QoS associated with the user's session to a default value in the RAN (column 5, lines 56-62; column 6, lines 1-46).

As per claim 18, McDysan teaches the method of Claim 1, wherein the RAN comprises a Broadband Remote Access Server (BRAS) (column 5, lines 39-40).

1. Claims 19-36 and 37-54 are rejected under the same rationale as claims 1-18 because they teach the system and computer program product of the method of claims 1-18.

As per claim 55, McDysan teaches a method of modifying at least one of bandwidth and Quality of Service (QoS) for a user session in a network that comprises a Regional/Access



Network (RAN) that facilitates differentiated end-to-end data transport between a Network Service Provider (NSP) and an Application Service Provider (ASP) and a Customer Premises Network (CPN) that includes Customer Premises Equipment (CPE), comprising:

receiving a request at at least one of the NSP and the ASP [PAD 40] to change at least one of bandwidth and QoS associated with the user's session (RESV request for bandwidth; column 16, lines 59-64; column 17, lines 1-40); and

using messaging interface calls at at least one of the NSP and the ASP to communicate with the RAN to modify the at least one of bandwidth and QoS associated with the user's session (policy server then makes....that control the functionality of PAD....via an API; column 6, lines 1-46).

### ***Response to Arguments***

2. Applicant's arguments filed May 18, 2009 have been fully considered but they are not persuasive.

3. Applicant argues that the reference McDysan does not teach or suggest receiving a request for a change in bandwidth and/or QoS for an existing user session.

4. However, McDysan teaches that the Programmable Access Device (PAD) 40 extends and modifies existing services (column 6, lines 15-25) and dynamically allocated resources, such as bandwidth (column 14, lines 20-32). McDysan also provides for dynamic SLA support in column 29, line 1-22.

5. McDysan also teaches requests for changes in bandwidth for an existing user session in column 30, lines 9-32 where customer applications can interact with service provider network

resources to dynamically provision services and provide applications with a guaranteed quality of service, hence teaching receiving a request for a change in bandwidth and/or QoS for an existing user session.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **UZMA ALAM** whose telephone number is (571)272-3995. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Uzma Alam /U. A./  
Examiner, Art Unit 2457  
July 30, 2009

/ARIO ETIENNE/  
Supervisory Patent Examiner, Art Unit 2457